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THE WASHINGTON POST
11 June 1976

Searches of Mail For Drugs Curbed

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The U.S. Customs Service practice of opening letters sent to the U.S. from overseas and searching them for possible drugs and other contraband is illegal unless the agents get a search warrant, the U.S. Court of Appeals ruled here yesterday.

The 2-to-1 ruling overturned the convictions of two major defendants in an international drug-smuggling ring that allegedly shipped more than \$1 million worth of high-purity drugs into the District and other U.S. cities through the mails. Drug enforcement officials have previously described the ring as the largest broken up in the city in the last three years.

The custom service routinely examines incoming letters for possible contraband and has never before been required by a court to obtain a search warrant. In fact, two other circuit courts

in the U.S. have specifically ruled that warrantless searches of incoming mail are legal—a judicial conflict that makes it likely the case will go to the U.S. Supreme Court.

Various courts also have held that it is legal for the customs officials to search cars, packages and baggage without warrants. However, such findings always specifically excluded the issue of warrantless searches of letters.

The appeals court yesterday, in an opinion written by U.S. Circuit Judge Carl McGowan, said there was good reason for requiring warrants for letters sent to the U.S. from overseas.

"... Letter mail is a vital means of communications in our society. Letters express the most important and sensitive of our personal, famil-

ial, political, professional and financial affairs. They implicate both our deepest privacy and our interest in free expression, far more than packages or suitcases or automobiles," McGowan said.

At two different points, McGowan cited recent disclosures of abuses by the Central Intelligence Agency in illegally opening mail as justification for the court's ruling yesterday.

"To advert again to the documented abuses by American intelligence agencies in conducting mail searches does not reflect an obsession with current headlines, but rather highlights the importance of or duty to enforce the Fourth Amendment's protection of individual privacy and security," McGowan said. Joining with McGowan in the ruling was U.S. Circuit Judge Edward A. Tamm. U.S. Circuit Judge Roger Robb dissented.

The majority judges suggested that customs inspectors could use dogs to sniff out contraband in sealed envelopes, or x-ray the sealed letters before asking a magistrate to approve a search warrant to open the letters. A magistrate could even be assigned on a regular basis at major post offices to review the warrant requests, the judges added.

"There is no question that international letter mail presents a serious threat to effective drug law enforcement," McGowan said, "but successful containment of the threat does not require abandonment of the Fourth Amendment."

The two defendants in the case were found guilty by a federal judge here. Charles W. Ramsey and James W. Kelly were each sentenced to 10-to-30 years in prison for operating the drug-smuggling scheme, and are still in prison.